Life After the Pink Form

Department of Local Government Finance

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October 24, 2012

1

Background: Purpose of the Pink Form Program

• Individuals and married couples are limited to one homestead standard deduction. As the receipt of this deduction becomes more beneficial, there is more incentive than ever for homestead fraud. Homestead fraud causes higher tax bills for all; therefore, House Enrolled Act (HEA) 1344-2009 requires taxpayers who receive the homestead standard deduction to verify that they are eligible to receive the benefit and to provide additional identifying information necessary to allow county government to better monitor homestead filings.

2

Background: Purpose of the Pink Form Program

• Each individual (and his or her spouse, if any) claiming the homestead deduction is required to provide the last five digits of his or her social security number and driver's license number. This information has been used to populate a secure homestead database, which will be used by county auditors to track homesteads statewide and prevent fraud. This will help reduce taxes for all by ensuring that everyone shares equally in the property tax burden.

• This form—a.k.a. the "pink form" or "verification form"—was to be sent with tax bills in 2010, 2011, and 2012 and is to be completed at least once by January 1, 2013.

3

What Happens January 2, 2013?

- What if a taxpayer has not returned the form by the deadline?

Under IC 6-1.1-12-17.8:

The county auditor may, in his or her discretion, terminate the deduction for assessment dates after January 15, 2012, if the individual does not timely and validly file the form, as determined by the auditor, before January 1, 2013. Before the county auditor terminates the deduction, he or she must mail notice of the proposed termination of the deduction to:

(1) the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records; or
(2) the last known address of the most recent owner shown in the transfer book.

If an auditor terminates a deduction because the taxpayer claiming the deduction did not timely and validly file the form before January 1, 2013, the auditor must reinstate the deduction if the taxpayer provides proof that he or she is eligible for the deduction and is not claiming the deduction for any other property.

4

Say it in English!

- What the General Assembly did was implement a temporary homestead deduction verification program to flush out fraud or erroneously granted homestead deductions. The verification forms were intended to enable auditors to ensure that a person receiving a homestead deduction is entitled to it.

- This program was not necessarily intended to be punitive. This is why the General Assembly gave auditors *discretion* to remove a homestead deduction if a taxpayer did not return the form and mandated auditors to reinstate the deduction if a taxpayer could prove his or her eligibility. Certainly if someone is ineligible for the deduction, he or she should not be receiving it.

- Even though the program is ending January 1, 2013, this does not mean that auditors can no longer request information from taxpayers to ensure they are eligible.

5

What Else Happens January 2, 2013?

- After January 2, 2013, when the pink form verification program ends, an auditor may still request information from a taxpayer to verify his or her eligibility for a homestead deduction. House Enrolled Act 1072-2012 amended the homestead deduction statute so that now:

  A county auditor may require an individual to provide evidence proving that his or her residence is in fact his or her principal place of residence as claimed in the deduction application. The county auditor may limit the evidence that the individual is required to submit to a state income tax return, a valid driver's license, or a valid voter registration card showing that the residence for which the deduction is claimed is the individual's principal place of residence. (Effective July 1, 2012)

- Effective July 1, 2012, the DLGF's corresponding administrative rule listing examples of proof a taxpayer may present has been voided. However, if an auditor has a legitimate question regarding an applicant's principal place of residence, the auditor may wish to request documents similar to those in the administrative rule for added security.

6

What Happens if . . . ?

- What happens if a taxpayer does not fully complete the verification form?

  The taxpayer's homestead can be removed the deduction for assessment dates after January 15, 2012.

- Does this mean that if the taxpayer doesn't want to provide the last five digits of his or her social security number on the verification form, the deduction can be removed?

  That's correct, but remember, if the taxpayer subsequently provides proof that he or she is eligible for the deduction, the auditor must reinstate it.

7

What Happens if . . . ?

- For purposes of the verification form, if the taxpayer doesn't have a driver's license or social security number, the last five digits of a state identification number or the last five digits of a control number on a document issued by the federal government such as a passport or work visa may be provided instead. These numbers are acceptable only if an individual legitimately does not have a driver's license or social security number and must be accompanied by an explanation of the type of number provided (i.e., passport number, work visa, state identification number).

8

What Happens if . . . ?

- Likewise, for purposes of the verification form, what if someone provides an out-of-state driver's license number?

  A taxpayer is not required to provide an Indiana driver's license or identification card to receive the homestead deduction. However, if he or she provides out-of-state identification, the county auditor may request additional information be provided to prove the Indiana property is his or her primary residence (see slide 6).

Note that an individual has 60 days to obtain an Indiana driver's license after becoming an Indiana resident (IC 9-24-1-7).

9

What Happens if . . . ?

- When we remove a homestead deduction because the verification form has not been returned, should we remove all deductions except the mortgage, veterans, and geothermal deductions since taxpayers receiving these deductions do not have to reside on the property?

  Only the homestead would be removed so long as the property qualifies for the other deductions.

10

What Happens if . . . ?

- Going forward, how do we obtain information about spouses not mentioned in a deed?

  The sales disclosure form requires a buyer who is applying for a homestead deduction to provide spouse information in the "penalties for perjury section" (see the instructions for that section). It says that spouse info, including a social security number, etc., is not necessary if the buyer is not applying for the homestead deduction.

11

What Happens if . . . ?

- What happens if someone buys a property in 2012 after property tax bills have already been mailed out? Does he or she still need to file a pink form?

  If, for example, someone buys a property in December, 2012 and applies for the deduction through the sales disclosure form ("SDF"), it is not necessary to have him file a pink form since the SDF requires the same information the pink form does and is signed under penalties of perjury. If this person goes into the auditor's office to apply for the deduction for the first time in December, 2012, the auditor may – but is not required to – ask him to fill out a pink form at the same time. After December 31, 2012, however, no taxpayer should be asked to fill out a pink form since the verification program ends January 1, 2013.

12

Deductions, Exemptions, and Credits, Oh My!

- What's the difference between a deduction, exemption, and credit?

  A deduction reduces the assessed value being taxed, an exemption excludes property from assessment and/or taxation, and a credit reduces the tax bill.

- This presentation and other Department of Local Government Finance materials are not the law unto themselves – the Indiana Code always governs.

13

Remember . . .

- If a deduction is validly in place as of March 1, it will stay in place for the assessment year, even if the property changes hands and the new owner is ineligible for it.
- What if a person has a homestead on his principal place of residence on March 1 but moves to new principal place of residence later in the year?

  The deduction will stay on the old property for that tax cycle and can be granted for the new property for the same tax cycle. See IC 6-1.1-12-37(h):

This subsection does not apply to property in the first year for which a deduction is claimed under this section if the sole reason that a deduction is claimed on other property is that the individual or married couple maintained a principal residence at the other property on March 1 in the same year in which an application for a deduction is filed under this section or, if the application is for a homestead that is assessed as personal property, on March 1 in the immediately preceding year and the individual or married couple is moving the individual's or married couple's principal residence to the property that is the subject of the application. Except as provided in subsection (n), the county auditor may not grant an individual or a married couple a deduction under this section if:

(1) the individual or married couple, for the same year, claims the deduction on two (2) or more different applications for the deduction; and
(2) the applications claim the deduction for different property.

14

What Happens if . . .
(Redux)

- What happens if an individual receiving a homestead deduction transfers his property to a trust of which he is the beneficiary? Since the title of the property changed, doesn't a new homestead deduction need to be filed?

  - Consult IC 6-1.1-12-17.8(e):

    A trust entitled to a [homestead] deduction . . . for real property owned by the trust and occupied by an individual in accordance with section 17.9 of this chapter is not required to file a statement to apply for the deduction, if:
    (1) the individual who occupies the real property receives a [homestead] deduction provided . . . in a particular year; and
    (2) the trust remains eligible for the deduction in the following year.
    However, for purposes of a [homestead] deduction, the individuals that qualify the trust for a deduction must comply with the [verification form] requirement . . . before January 1, 2013.

- Thus, the homestead deduction is "carried over" to the trust and no new application must be filed.

15

What Happens if . . .
(Redux)

- A husband and wife divorce after March 1. The husband moves out, buys his own house, and applies for the homestead deduction. Should he receive the deduction on his new house? What should happen to the deduction on the old house?

  The husband can receive the deduction on the new property. Because the homestead was validly in place on the old house as of March 1, then the homestead will remain on that property for that tax cycle. The wife, especially if the title changes, should probably file for the deduction in her name for the next tax cycle.

- What if they divorced prior to March 1?

  If the wife's name was listed on the homestead application or she was a signatory to the sales disclosure form through which the homestead deduction was applied for and she is a titled owner or is named in the mortgage, then the county can probably leave the deduction in place (unless the title changed following the divorce but prior to March 1). The wife should then file for the deduction in her own name for the next tax cycle. If the wife's name was not listed on the homestead application or she is not a signatory to the sales disclosure form (but she's a titled owner or on the mortgage), then the county will have to determine whether it has sufficient information to allow or reinstate the deduction for that tax cycle (check the verification form!). Regardless of whether the wife's name is on the homestead application or she was a signatory to the sales disclosure form, if she is not a titled owner or on the mortgage, then she cannot be given a homestead deduction if she divorced before March 1.

- Remember, these are ultimately local decisions!

16

What Happens if . . .
(Redux)

- Does an LLC have to have a homestead deduction on the property on March 1, 2009 to continue to receive one?

  No. Under IC 6-1.1-12-37(k)(5), the property had to be "eligible for the standard deduction under [IC 6-1.1-12-37] on March 1, 2009." Thus, so long as the property was eligible for the deduction at that time, regardless of who owned it or whether the deduction was actually in place, this provision is satisfied.

17

FYI

- Please note that HEA 1072-2012 amended the homestead deduction statute so that:

  If a property owner's property is not eligible for the deduction because the county auditor has determined that the property is not the property owner's principal place of residence, the property owner may appeal the county auditor's determination to the PTABOA as provided in IC 6-1.1-15. The county auditor must inform the property owner of the owner's right to appeal to the PTABOA when the county auditor informs the property owner of the county auditor's determination.

(Effective July 1, 2012)

18

RECENT IBTR RULING

- The Indiana Board of Tax Review ("IBTR") recently issued a final determination in an appeal involving the application of the circuit breaker ("tax cap") to a taxpayer whose property did not have the "homestead" (standard deduction). In their ruling, the IBTR stated, "A taxpayer, however, is not required to apply for the appropriate tax cap; instead, the statute requires the county auditor to identify eligible property, and then apply the credit." The IBTR further stated, "But a homestead under the tax cap statute is simply a homestead that is 'eligible' for the standard deduction, not a homestead that is the subject of an application for, or that has been granted the standard deduction." The IBTR, therefore, found the taxpayer's homesite and improvements met the definition of a homestead for purposes of applying the credit provided in IC 6-1.1-20.6-7(a)(1), and that the credit had to be applied in determining the tax bill. The Board did recognize that a county auditor has no way of knowing whether a taxpayer uses a given property for his or her principle residence unless the taxpayer affirmatively shows that fact, such as when the taxpayer applies for a standard deduction.
- Therefore, based on the IBTR's ruling, property may receive the 1% tax cap if it is the owner's principal place of residence, even though the owner/taxpayer failed to file a homestead standard deduction application.

19

IN OTHER WORDS . . .

- The IBTR's decision pertains only to the homestead property tax **cap** – not the homestead **deduction**. Thus, the standards of eligibility for the homestead deduction and the requirement that a person apply for the deduction and return the verification form are still in place and are unchanged. The IBTR's ruling simply stands for the idea that a person may still receive the homestead property tax **cap** even if he or she has not applied for the homestead **deduction**. The person's property must still be eligible for treatment as homestead property, meaning that the property is the person's principal place of residence that he or she owns or is buying under contract.
- In other words, a person who is not receiving or is not eligible for a homestead **deduction** because he or she has not applied for the deduction or has not returned the verification form may still receive the homestead property tax **cap** if his or her property is in fact his or her homestead. For purposes of verifying a person's eligibility for the homestead property tax **cap**, an auditor may request the same kinds of proof that he or she seeks to verify a person's eligibility for the homestead **deduction**.
- With regard to a taxpayer seeking reimbursement for taxes paid in previous years because the homestead property tax cap was not applied to his or her tax bills, the person would have to utilize the Correction of Error appeals process (Form 133) and could seek a refund for only the previous three years' assessments.

20

That's all, folks!

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21